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Chairman: Mr. Politi ..... (Italy)

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The meeting was called to order at 3.05 p.m.

Agenda item 154: Progressive development of the principles and norms of international law relating to the new international economic order

1. **Ms. Álvarez Núñez** (Cuba), reviewing the history of the agenda item, said that her delegation had been one of the sponsors of General Assembly resolution 46/52. In that resolution, the Assembly had recognized that the impact of the international economic situation on the developing countries should be analysed and had established a working group of the Sixth Committee for that purpose. Her delegation remained convinced of the importance of the item and supported its retention in the Committee's agenda.

2. The existing international economic order was cruel, unjust and unsustainable and required immediate action by the United Nations. The need for an international economic order based on just and rational norms was a challenge that must be faced if the Organization was to fulfil its commitments in the new millennium.

3. In the Millennium Declaration, the heads of State and Government had recognized that the fundamental task before them was to transform globalization into a positive force for all of the world's people, so that both its benefits and its costs would be shared equitably. That would require an open and transparent multilateral trading and financial system based on predictable and non-discriminatory rules.

4. At its ministerial meeting held in Cartagena in April, the Movement of Non-Aligned Countries had reaffirmed the need to establish such a system, as had the Group of 77 in Havana that same month.

5. Development was the best contribution to peace. The underlying causes of current conflicts were poverty and underdevelopment in the vast majority of countries and the unequal distribution of wealth and knowledge around the world. It was sufficient to recall that 80 per cent of the world's 6 billion people were poor.

6. The Committee's work could be revitalized through future consideration of the item. It would be very useful to request Member States and competent international organizations, including the United Nations regional commissions, to submit proposals and comments on the item and to request the Secretary-General to prepare a report summarizing those proposals.

7. **Mr. Su** Wei (China) said that while the current trend towards a globalized economy based on science and technology had given rise to new opportunities for economic development in all countries, there was a need for a fundamental transformation of the unjust and irrational international economic order. Scientific and technological progress and economic globalization had yet to benefit all countries of the world. Many developing countries were trapped in ever-increasing poverty, with a heavy debt burden severely hampering their development efforts. The gap between the North and the South and between the rich and the poor was continuing to widen. While the developed nations accounted for 86 per cent of the gross world product and 82 per cent of the export market, the developing countries, with an overwhelming majority of the world's population, accounted for a mere 14 per cent and 18 per cent, respectively. There were 1.3 billion people in the world living in conditions of abject poverty, particularly in the developing countries. Without fundamental change, not only would the developing countries be unable to keep up with the development of the world economy, but the developed countries would be unable to insulate themselves from the resulting turbulence.

8. His delegation believed, first, that the Committee's consideration of the item should reflect the common interests of the peoples of the world. Second, it should adhere to the purposes and principles of the Charter of the United Nations and other universally recognized norms of international relations. Third, it should respect the independent right of countries to choose their social systems and development paths. Fourth, consideration of the item should reformulate the international legal system and the principles of international law to bring them into line with the aforesaid requirements. Fifth, the Committee should encourage extensive participation by the developing countries in its deliberations on an equal footing. His delegation supported the Cuban proposal that the Secretary-General should be requested to provide background information on the item.

Agenda item 165: Review of the Statute of the United Nations Administrative Tribunal

9. **Ms. Burnett** (United Kingdom) said that useful and substantive consultations had been held on the item at the previous session of the General Assembly. The Committee had considered a number of proposals put forward by her delegation, relating to the nature of the Tribunal, whether it should be considered a court, the qualifications of its members, their terms of office and various technical updates to its Statute.

10. Based on those discussions, her delegation had circulated at the current meeting a revised version of draft resolution A/C.6/54/L.13/Rev.1, prepared with the delegations of Ireland and France. The sponsors had agreed that the amendments should be technical in nature and that the Committee should proceed by consensus. Proposals which did not appear to enjoy the necessary consensus had not been included. Accordingly, the sponsors had not laid down precise qualifications for the appointment of members of the Tribunal; reference had simply been made to the need for them to have the requisite qualifications and experience. That left room for the possibility that appointees with no legal experience but with wide experience within the United Nations system would not be excluded from membership of the Tribunal.

11. During the preparation of the text the sponsors' attention had been drawn to a report by the Joint Inspection Unit on the administration of justice at the United Nations (A/55/57). That report also made various comments on the work of the Tribunal. It drew attention to a number of issues which affected the Tribunal but could not be considered in isolation from other United Nations bodies, such as possible rights for appeal. While the sponsors did not believe that the detailed consideration which might need to be given to those matters in the future should stand in the way of the adoption of the draft resolution, they suggested that the item should be included in the Committee's agenda at a future date, perhaps during the fifty-seventh session.

12. The sponsors hoped that the draft resolution would be adopted by consensus.

13. **Mr. Alabrune** (France) said that the Tribunal had become a fully fledged jurisdiction which took due account of the contributions made by different legal systems. The extension of its competence decided by the fifty-second General Assembly testified to the degree of confidence it enjoyed among Member States and the staff of the Secretariat. Its functioning should now be improved by reinforcing its position within the United Nations system. The draft resolution to that effect sponsored by the delegations of France, Ireland and the United Kingdom reflected the observations made at the Committee's previous session on the original proposal by those delegations, moderating somewhat the reach of the original. The proposed extension of the term of office of the members of the Tribunal from three to four years was intended to enable members to take full advantage of the experience gained at the beginning of their term. The proposed new article 8 would make provision for cases involving difficult questions of law, by allowing the three Tribunal members sitting in such a case to refer it to the whole Tribunal. The sponsors of the draft resolution intended the Statute of the Tribunal to be reviewed at the fifty-seventh session of the General Assembly.

14. **Mr. Fomba** (Mali) said that his delegation had no difficulty with the drafters' proposal to increase the term of office of members of the Tribunal from three to four years and to limit them to two terms.

15. The proposed new article 8 was an improvement over existing paragraph 1 of article 3 of the Statute, which stated that "Only three shall sit in any particular case". It represented a better organization of work and greater security for the Tribunal's decisions. While his delegation had no difficulties as to the substance, it believed that the drafting of the text could be improved.

16. **Mr. Kanu** (Sierra Leone) recalled that his delegation had expressed concern about the amendments of the Tribunal's Statute originally proposed by the United Kingdom. In the view of his delegation, the Tribunal was a quasi-judicial body and should not be given all the trappings of a court. He could, however, support the new version of the resolution proposed by the United Kingdom.

17. **Mr. Gupta** (India) said that the Tribunal was a necessary and valuable part of the United Nations system. Since disputes to which the United Nations was a party could not be submitted to a national court without affecting its independence and immunity, the option of recourse to the Tribunal ensured that its staff members were not deprived of the judicial guarantees conferred by most national legal systems on their civil

servants. The Tribunal had issued over 900 judgements since 1949. It had won the confidence of both the staff and the administration, as was evident from the increasing number of cases brought to it and the acceptance and implementation of its judgements. Evidently, Member States also trusted it, since they had decided in General Assembly resolution 50/54 to delete the provision in article 11 of its Statute that an advisory opinion concerning the validity of its judgements could be requested of the International Court of Justice. Moreover, the Court had itself decided that the Tribunal should be competent to hear appeals from its own staff members.

18. He welcomed the proposal submitted by the delegations of France, Ireland and the United Kingdom with a view to enhancing the judicial standing of the Tribunal. The Tribunal was increasingly called upon to deal with complex legal issues, and it was therefore appropriate that its members should possess the requisite qualifications and experience. Increasing the present three-year term of office to four years would also allow members to become fully familiar with the functioning of the Tribunal while providing for greater continuity. The Tribunal's authority would be enhanced by the proposed new article 8, allowing for cases involving significant questions of law to be referred to the whole Tribunal.

19. **Ms. Álvarez Núñez** (Cuba) said that the increasing volume of work handled by the Tribunal was a logical consequence of the complexity of tasks now required of the staff of the United Nations. The review of its Statute was part of the process of reform within the Organization. Amendments made to the Statute should strengthen the institutional safeguards and guarantee an equitable, efficient and swift system of remedies. The draft resolution before the Committee was phrased in neutral terms and was an improvement over the one submitted at the previous session. The recommendations concerning the required qualifications of members of the Tribunal were acceptable, and indeed they matched recommendation 3 (b) of the report of the Joint Inspection Unit on the administration of justice in the United Nations (A/55/57). However, her delegation insisted that the members of the Tribunal should be elected according to the principle of geographical distribution.

20. Moreover, the review of the Statute should be treated as a gradual process. Recommendation 3 (a) of the JIU report, which proposed amending article 9 of the Statute to eliminate the existing restrictions on the Tribunal's authority, should be considered in detail by Member States. Recommendation 3 (c) should be considered by the Advisory Committee on Administrative and Budgetary Questions and the Fifth Committee, since it was not within the remit of the Sixth Committee.

21. **Mr. Obeid** (Syrian Arab Republic) welcomed the opportunity to discuss the proposed amendments to the Statute of the Tribunal. The amendments proposed at the previous session had been discussed during informal consultations, and he wondered whether there would be a similar opportunity during the present session. He recalled that the principle of equitable geographical distribution of the Tribunal's membership had previously been accepted by all delegations. It would also be desirable, when discussing the proposed increase in the number of judges, to ensure representation of all the legal systems of the world, and thereby a better understanding of the legal issues which arose at the Tribunal.

22. **Mr. Ekedede** (Nigeria) recalled that in the debate on the review of the Tribunal's Statute at the previous session, his delegation had expressed concern at the attempt to introduce radical changes into the structure of the Tribunal, and to alter its quasi-judicial character by turning it into a fully fledged court. His delegation did not feel ready for such a move, and the motivation behind it was not clear. Fortunately, those concerns were reflected in the new draft resolution, which he was glad to support. However, he agreed with the representative of Cuba that the principle of equitable geographical distribution should apply to the membership of the Tribunal, in order to reflect the views of the developing countries.

23. **Mr. Lavalle-Valdé** (Guatemala) found the new proposal acceptable. He would however suggest including, after the word "judgement" in the proposed new article 8, the words "but not before submission of the last written pleading". Only when the written stages had been completed could the Tribunal properly decide that the case merited examination by a larger panel. The last sentence of article 8 should read "The quorum for a meeting or hearing by the whole Tribunal shall be five members". Lastly, to ensure that the three judges originally dealing with the case would continue until it was finished, he suggested inserting after the words "five members" a form of words akin to "including as

far as possible the members of the panel that initially dealt with the case".

24. **The Chairman**, drawing the debate to a close, said that the delegation of the United Kingdom was prepared to coordinate further work on the draft resolution. Informal consultations could be held if needed, as requested by the representative of the Syrian Arab Republic.

Agenda item 163: Report of the Special Committee on the Charter of the United Nations and on the Strengthening of the Role of the Organization (*continued*) (A/55/293 and Add.1; A/C.6/55/L.3)

25. **Mr. Panevkin** (Russian Federation), introducing the draft resolution sponsored by Bulgaria, the Russian Federation and Ukraine (A/C.6/55/L.3), said that the effect of sanctions on third countries had been discussed in the Committee's meetings of 11 to 13 October and at the recent session of the Special Committee on the Charter of the United Nations and on the Strengthening of the Role of the Organization. There had been a number of recent developments in the matter of sanctions, which did not however detract from the significance of earlier work on the topic. The present draft resolution was based on General Assembly resolution 54/107, which had been adopted by consensus. It also reflected the section on sanctions, in relation to article 50 of the Charter of the United Nations, in the annual overview reports of the Administrative Committee on Coordination; the references to humanitarian assistance in General Assembly resolution 54/96 G; the report of the Secretary-General to the Millennium Summit and the Millennium Declaration; measures taken by the Security Council to improve the work of the sanctions committees; and recent progress on the topic of sanctions within the Economic and Social Council. He drew attention to subparagraphs (f), (j) and (k) of the fourth preambular paragraph and to operative paragraphs 2, 5, 7 and 9. Paragraph 10 proposed the establishment of a working group of the Sixth Committee, during the fifty-sixth session of the General Assembly, to consider further progress in the elaboration of effective measures to implement the provisions of the Charter related to assistance to third States affected by the application of sanctions under Chapter VII. He hoped the Bureau of the Committee would support the draft resolution and that the Committee would discuss it in a constructive spirit.

The meeting rose at 4.20 p.m.